

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RICHARD O. KINCAIDE

Plaintiff,

v.

Case No. 16-11903
Honorable Denise Page Hood

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ACCEPTING REPORT AND RECOMMENDATION
AND DISMISSING ACTION**

This matter comes before the Court on Magistrate Judge David R. Grand's Report and Recommendation. [#19] *Pro se* Plaintiff Richard O. Kincaide filed this action on May 26, 2016, asking this Court to review the Commissioner's final decision to deny his application for disability insurance benefits. The parties filed cross motions for summary judgment. The Magistrate Judge recommends that the Court grant the Commissioner's Motion for Summary Judgment, deny Plaintiff's Motion for Summary Judgment, and dismiss Plaintiff's cause of action. Neither party filed any objections to the Report and Recommendation.

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in reaching

his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge (“ALJ”) must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court’s review of an ALJ’s decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if it is supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. Finding no error in the Magistrate Judge’s Report and Recommendation, the Court adopts the Report and Recommendation in its entirety. Furthermore, as neither party has raised an objection to the Report and Recommendation, the Court finds that the parties have waived any further objections to the Report and Recommendation. *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) (a party’s failure to file any objections waives his or her right to further appeal); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

For the reasons stated above,

IT IS ORDERED that the Report and Recommendation [Docket No. 19, filed February 6, 2017] is **ADOPTED** as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [Docket No. 13, filed September 12, 2016] is **DENIED**.

IT IS FURTHER ORDERED that the Commissioner's Motion for Summary Judgment [Docket No. 16, filed November 3, 2016] is **GRANTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** with prejudice.

s/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: March 22, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 22, 2017, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry

Case Manager